

MINUTES
MASSAGE THERAPY BOARD
November 9, 2004 - 9:00 A.M.
Room 4B - Fourth Floor - Heber Wells Bldg.
160 East 300 South, Salt Lake City, Utah

CONVENED: 9:12 A.M.

ADJOURNED: 1:27 P.M.

PRESENT:

Clyde Ormond, Bureau Manager
Marty Simon, Board Secretary
Board Members:
Carlotta Veasy Richard Engar
Barbara Novak Ruth Werner

ABSENT:

Karen Lessman-Hughes

GUESTS:

Craig Jackson, Division Director; Roger Olbrot, AMTA; Randy Nikola, Healing Mountain Massage School; Ray Pippin; Craig Anderson, Ogden Institute of Massage Therapy.

TOPICS FOR DISCUSSION:

DECISIONS AND RECOMMENDATIONS:

ADMINISTRATIVE BUSINESS:

Swear in New Board Members

Mr. Ormond administered the Oath of Office to Ms. Werner and Ms. Novak. He then gave a synopsis of the duties and responsibilities of a board member as stated in 58-1, Utah Code Annotated, and R156-1, Utah Administrative Code. Ms. Werner and Ms. Novak were welcomed as new board members.

Minutes

The minutes of the August 10, 2004 board meeting were approved as revised.

APPOINTMENTS and NEW APPLICATIONS: Received since August 10, 2004

9:15 A.M.
Lindsay Wallace

Ms. Wallace met with the Board to review her application for licensure that showed a criminal charge of Domestic Violence on April 14, 2002 for which she was found guilty. She answered, "Yes" on her application regarding the charges. Ms. Wallace was placed on 12 months of court probation that was completed in May 2003. The judge had also ordered her to obtain a psychiatric evaluation to determine if she needed to attend a domestic violence class counseling and the therapist determined it wasn't necessary.
The Board asked Ms. Wallace to explain the circumstances of the charge. She stated it was a minor

Lindsay Wallace Apt (cont)

argument between her mother and herself that escalated. She further stated she had an abusive childhood and was diagnosed with a bi-polar disorder. Ms. Wallace lives in St George and is licensed in Nevada and has been working there as a massage therapist.

The Board then weighed the mitigating and aggravating issues. A motion was made by Mr. Engar and seconded by Ms. Werner to request her to provide a report from her therapist. If the report is positive then she can be issued full licensure. If the report is not positive then she will be put on a Memorandum of Understanding (MOU) and issued a probationary license. The motion carried unanimously. Mr. Ormond explained the MOU process to her if she should be put on probation.

It was later noted that Ms. Wallace has not taken the NCBTMB exam. She must provide documentation of passing that exam to be approved for full licensure.

9:30 A.M.
Dave Tucker

Mr. Tucker met with the Board to review his application for licensure that showed a criminal charge of Retail Theft on December 13, 2002, for which he was found guilty. Mr. Tucker had answered "No" on his application regarding ever having any criminal charges. He submitted documentation of completion of an Adult Theft Prevention class at New Horizons on February 25, 2003. Mr. Tucker stated he had completed his one-year of informal court probation. The Board requested him to provide documentation of completion of his court probation.

A motion was made by Ms. Veasy and seconded by Ms. Werner to put him on an MOU for three years and issue a probationary license, after receipt of documentation showing he has passed the NCBTMB exam. Specific items to be included in the MOU are: 1. work as a massage therapist only under the direct supervision of a licensed massage therapist; 2. provide documentation of the completion of the court probation; 3. submit quarterly "Employer Reports"; and 4. meet with the Board quarterly or as requested. The motion carried unanimously

9:45 A.M.
Tim Barbee

Mr. Barbee met with the Board for his first probation interview. He stated he is employed by Hummel Landscaping to give massages within the company to

Tim Barbee Apt (cont)

the owner and some of the employees. Mr. Barbee gives the massage either at the business office or in his home. He submitted a positive "Employer Report" from his supervisor, Jeff Hummel. The Board stated it had been their understanding that he would be working with the speed skaters and the coach could be the supervisor. They don't think Mr. Hummel would be appropriate, as the supervisor should be working within the domain of massage therapy. Mr. Hummel doesn't have any knowledge of what is appropriate massage therapy.

The Board asked Mr. Barbee if he had a business license to work out of his home. He replied he did not. Mr. Olbrot referred to 58-47b-502 (1) that states it is unprofessional conduct to give massages in his home without a business license. The Board advised him that he should be on the payroll of this company and not be taking payments directly from the employees. Also, Mr. Hummel must be present in the facility when he is working on the employees and it should be done at the place of business.

Mr. Barbee also stated, when asked, that he is planning to also work with the speed skaters this winter. The Board instructed him to obtain an "Employer Report" from each employer he works for.

Since the law and rules do not state specifically that the supervisor must be a massage therapist, the Board determined that technically he is in compliance with his MOU. He was scheduled to meet with the Board again at 10:00 A.M. on February 8, 2005.

10:00 A.M.
Cody Jenkins

Mr. Jenkins called to say he could not meet with the Board for his probation interview. He requested that he be rescheduled to meet with the Board at the February 8, 2004 meeting. Since he is not in compliance, the Board recommended that a "Non-Compliance" letter be sent to him regarding his non-compliance with his MOU. It should state he is not calling in for his drug screens on a daily basis, his last drug screen taken was positive, he failed to meet with the Board and no "Employer Report" has been received. He was scheduled to meet with the Board at 9:45 A.M. on February 8, 2004.

10:15 A.M.
Kalvin Capener

Mr. Capener met with the Board for his probation interview. He submitted a positive "Employer Report" from his supervisor, Janet Peacock, at Essential Salon.

Kalvin Capener Apt (cont)

The Board determined he is in compliance with his MOU. He was scheduled to meet with the Board again at 9:30 A.M. on February 8, 2005.

10:30 A.M.
Steven Thornock

Mr. Thornock met with the Board for his probation interview. He submitted a positive "Employer Report" from his supervisor, Dr. Duy Tran, at Health Quest Chiropractic Office. The Board determined he is in compliance. He also submitted a clear criminal report from BCI, as requested. A motion was made by Mr. Engar and seconded by Ms. Werner to release him from probation early. The motion carried unanimously.

10:45 A.M.
Jason Darlington

Mr. Darlington met with the Board for his probation interview. He isn't currently working in massage therapy as he has left Canyon Cove Spa & Salon and is attending Weber State University. He is on court probation in Orange County, California until 2006. The Board requested that he provide an "Employer Report" from Canyon Cove stating whether he was in good standing when he left their employment. He was scheduled to meet with the Board again at 10:15 A.M. on February 8, 2005.

11:00 A.M.
Karla Smith

Ms. Smith met with the Board for her probation interview. She submitted a positive "Employer Report" from her supervisor, Angela Mazza at Creative Touch. She informed the Board that she had completed her court probation and they requested that she submit documentation of that. The Board questioned whether she had stated her drug testing and she stated she had. Ms. Simon later verified with Debbie Harry, Division Drug Coordinator that she did start calling in on November 5, 2004. She was scheduled to meet with the Board again at 11:00 A.M. on February 8, 2005.

11:15 A.M.
James Pruett

Mr. Pruett didn't keep his appointment to meet with the Board to review his criminal charges. Mr. Pruett answered "No" on his application for licensure regarding ever having any criminal charges. However, he was charged with Theft, a Misdemeanor B, on April 2, 2004, for which he was found guilty and placed on court probation for 24 months. He was also charged with Sexual Battery on April 9, 2004 but was found not guilty.

Since Mr. Pruett did not appear to explain the charges and has not passed the NCBTMB exam, the Board decided that Mr. Pruett should be automatically denied for licensure as a massage therapist.

11:30 A.M.
Kellieanne Fredin

Ms. Fredin met with the Board for her probation interview. She has moved back from Louisiana and wants to continue with her probation. She submitted a positive "Employer Report" from her supervisor, Ginger Maroney, at Sego Lily Day Spa. A drug screen she took on December 8, 2003 was negative. The Board determined she is in compliance with her MOU. She was scheduled to meet with the Board again at 10:30 A.M. on February 8, 2005.

11:45 A.M.
Lindsey Hathaway

Ms. Hathaway met with the Board again to review her application for licensure that showed criminal charges of Possession of a Controlled Substance, Possession of Paraphernalia and Driving Under the Influence on January 25, 2002 for which she was found guilty. The Board denied her for licensure at the February 10, 2004 board meeting and stated she could re-apply again three years from the date of her judicial proceedings. She should include documentation of completion of her counseling and court probation.

The Board decided, since the three years will be up in January 2005, she could re-apply now. A motion was made by Mr. Engar and seconded by Ms. Novak that upon receipt of a new application, she can be issued a probationary license and put on a MOU for two years that should include the following items: 1. work as a massage therapist only under the supervision of a licensed massage therapist; 2. meet with the Board quarterly or as requested; 3. submit quarterly "Employer Reports"; and 4. submit documentation of completion of counseling and court probation. The motion carried unanimously. She was scheduled to meet with the Board at 10:45 A.M. on February 8, 2005 for her first probation interview.

11:55 A.M.
Juline Van Wagoner

Ms. Van Wagoner met with the Board to review her application that showed two criminal charges of Misuse Public Money on January 29, 1999, one of which she was found guilty and the other one was dismissed. She was put on probation on February 1, 1999 for two years on a plea in abeyance that has been completed.

Ms. Van Wagoner's license was revoked on October 4, 2004, because she answered "No" on her first application. She stated she thought since the charges had been dismissed they were no longer on her record. She was then told she could re-apply and answer the questions correctly, which she did.

Juline Van Wagoner Apt (cont)

A motion was made by Ms. Novak and seconded by Mr. Engar to approve her for full licensure. The motion carried unanimously.

12:10 P.M.
Michelle Nielson

Ms. Nielson met with the Board to review whether the massage therapy modalities she is doing are OK. She stated that sometimes when she is administering a massage an emotional release occurs and inquired whether this is OK to happen. Ms. Nielson feels what she is doing is legal but wants the public to be educated that this emotional release can happen. Ms. Werner asked her if this is her goal when she begins the therapy and she replied it is not.

The Board stated she should suggest to the patient that they should seek professional counseling for any discussions of problems. Mr. Ormond suggested she contact her attorney to review the law and rules to determine if she is engaging in any practice outside of the scope of practice of massage.

12:20 P.M.
Morgan Drake

Mr. Drake did not meet with the Board to review his application for licensure that showed criminal charges of Possession of Marijuana on October 12, 2001, a Federal Charge. He did answer, "Yes" on his application regarding the charge. Mr. Drake applied on June 17, 2004 to take the NCBTMB exam

A motion was made by Mr. Engar and seconded by Ms. Novak that upon receipt of documentation showing Mr. Drake has passed the NCBTMB exam he can be issued a probationary license and put on a MOU that should include the following items: 1. random drug screens; 2. meet with the Board quarterly or as requested; and 3. submit quarterly "Employer Reports". The motion carried unanimously.

NEW BUSINESS:

Pura Vida Massage Therapy College Curriculum

This school's curriculum was reviewed by the Massage Therapy Education Committee on October 15, 2004, and approved contingent upon submission of the syllabi for each course. Dr. Waters sent a letter alleging that Ms. Young had plagiarized his massage therapy school's curriculum. Mr. Ormond stated the Division's legal counsel had informed him the Division can't be involved with the complaint as it is a civil matter between Dr. Waters and Ms. Young and should be settled between them in court.

Since the additional information requested by the Committee has not been received, the Board can't approve the syllabi until the Committee has reviewed them. A motion was made by Ms. Werner and seconded by Ms. Novak to approve the curriculum, contingent upon approval of the syllabi by the Committee, when received. The motion carried unanimously.

The syllabi was later received and reviewed with Craig Sauer by Mr. Ormond by a telephone conversation. The curriculum was then approved.

NCBTMB letter re: School Outreach Program

A letter and brochure with information about a School Outreach Program to increase communications with the schools was reviewed by the Board.

DISCUSSION ITEMS:

Instructor Training

Mr. Ormond inquired what the Board's opinion was about requiring instructors to have 1000 hours of instructor training and take an exam. Mr. Olbrot agreed to put this question before the Association meeting this week. The Board suggested surveying other professions as to how they set the hours of training for being an instructor in their professions.

Jannyn Burns Apprenticeship

Ms. Burns began an apprenticeship with Deborah McLaughlin on July 22, 2003 and stated she had paid \$2,650 of the \$3,600 they had agreed upon. Ms. Burns alleges that Ms. McLaughlin has failed to complete the supervision of the apprenticeship. During the last six months, Ms. McLaughlin has failed to keep appointments with Ms. Burns to continue teaching her and will not return her phone calls. Ms. Burns stated that Ms. McLaughlin has now moved to Idaho.

Ms. Burns then went to work under a supervisor in Nevada and wants to count that time toward her apprenticeship training.

The Board recommended that another supervisor be found who can evaluate her as to how many additional hours she would need to complete the apprenticeship. Mr. Ormond agreed to write a letter asking her to try to obtain documentation from Ms. McLaughlin as to how many hours Ms. Burns completed in the apprenticeship.

Rules Hearing

Mr. Ormond informed the Board that he is planning to schedule a rules hearing for this profession in December 2004. Copies of the proposed rules will be

sent to each board member for their review and comment. He then reviewed with the new board members the items that are being proposed to be changed or added in the rules. The board members agreed that December 17, 2004 at 9:00 A.M. would be conducive with their work schedules to hold the rules hearing.

NEXT BOARD MEETING:

The Board noted the board meetings scheduled for 2005 will be: February 8, May 10, August 9, and November 8, 2005.

DATE APPROVED

CHAIRPERSON, MASSAGE
THERAPY BOARD

DATE APPROVED

BUREAU MANAGER, DIVISION OF
OCCUPATIONAL & PROFESSIONAL
LICENSING